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**IN THE
COURT OF APPEALS OF INDIANA**

IN RE THE MATTER OF:
D.C., A.E., J.E., J.S.E., Minors,

ALISANDRA CURTIS,

Appellant-Respondent,

VS.

LAKE COUNTY DEPARTMENT OF
CHILD SERVICES,

Appellee-Petitioner.

[illegible]

No. 45A04-0609-JV-521

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Mary Beth Bonaventura, Senior Judge
Cause No. 45D06-0509-JT-86, 87, 88 & 89

February 28, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNAK, Judge

Alisandra Curtis (“Mother”) appeals the trial court’s termination of her parental rights. Mother raises one issue, which we revise and restate as whether the trial court’s order terminating Mother’s parental rights to D.C., A.E., J.E., and J.S.E is clearly erroneous.

The relevant facts follow. Mother has four children,¹ D.C., who was born on January 22, 1999, J.S.E., who was born on December 10, 2001, J.E., who was born on April 8, 2003, and A.E., who was born on March 4, 2004.² In July 2004, the Lake County Department of Child Services (“LCDCS”) received a report of poor living conditions at Mother’s house. As a result, the LCDCS began “in-home based services.” Transcript at 34.

In September 2004, Mother ran out of the house with just her underwear on, and the family was concerned for the safety of the Children. The Gary Police Department responded to the disturbance at Mother’s house and contacted the LCDCS regarding the incident and the poor condition of Mother’s house. Specifically, the police reported that the home was “filthy, roach infested,” and had a “possible infestation of mice.” LCDCS’s Exhibit 1. The LCDCS found that the home met the very minimum standard for living and found one roach and no mice. When questioned by the LCDCS, Mother admitted that she had smoked crack cocaine the night before the incident.

¹ Mother also has seven other children who are not involved in this case.

² Jade Edwards is the father of J.E., J.S.E., and A.E. Harold Dawson is the alleged father of D.C.

The Lake County Office of Family and Children (“LCOFC”) filed petitions alleging that the Children were children in need of services. The CHINS petitions alleged:

* * * * *

[T]he child’s physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal or neglect of the child’s parent, guardian or custodian to supply the child with necessary food, clothing, shelter, medical care, education or supervision, to-wit:

- A. That on or about September 14, 2004, the Lake County Office of Family and Children (hereinafter LCOFC) received a referral indicating that the police were called to the home due to domestic violence;
- B. Police reported the home to be filthy and roach infested, although the LCOFC investigator found the home to meet the very minimum standard of living;
- C. LCOFC became involved with this family in July 2004 due to substandard living conditions and has been assisting the family through a service case;
- D. Additionally, LCOFC has terminated on five of [Mother]’s older children;
- E. [Mother] abuses crack cocaine;
- F. The family has been without electricity for three weeks;
- G. [A.E.], [J.E.], [J.S.E.], and [D.C.] are all very young children, (seven months, one year, two years, and five years respectively) and incapable of providing even basic care for themselves;

- H. [Mother] and [Edwards] were living together with their children, and both parents are believed to be mildly, mentally retarded;
- I. [D.C.]’s father is alleged to be Harold Dawson, and he does not provide any kind of support, monetary or otherwise, for his child.

LCDCS’s Exhibit 2. The parental participation agreement stated, in part:

That the participation of [Mother] is requested pursuant to I.C. 31-34-16-1.

* * * * *

3. [Mother] should:

- (a) obtain assistance in fulfilling their obligations as parent(s), guardian(s) or custodian(s).
- (b) provide specified care, treatment or supervision for the child/ren or
- (c) work with any person providing care, treatment or rehabilitation for the child/ren[.]

Id. The trial court granted the LCOFC’s petition, found the Children to be CHINS, and ordered that the Children become wards of the State effective September 14, 2004. The Children have not been returned to Mother’s care since September 2004.

During visitation, the Children were playful with Mother, but there was no sign of a parent-child relationship. The LCDCS asked Mother to refrain from bringing “sugary snacks to the visit site to try to work with the Villages worker to plan out healthy snacks to bring to the site” because the Children suffered from ringworm, but the Children returned from the visits with candy or chips. Transcript at 50-51. In July 2005, visitation stopped.

In March 2005, the Children were placed in a foster home. D.C. was subsequently placed in the St. Joseph's Home for Boys due to an allegation of setting the foster parents' home on fire, acting out sexually, and other issues.

In December 2005, Mother's home had a smell, clothes were piled everywhere, and cleaning needed to be done. During the case manager's last visit to the home, she was not allowed into the front of the house so she could not determine the condition of the home.

Mother was provided services, including a twelve week outpatient drug rehabilitation program that took Mother about a year because she only showed up occasionally for appointments. Of the twelve times Mother was tested for drugs for this case, Mother tested positive ten times. Mother had periods of compliance with services but became noncompliant and failed to follow through. Mother failed to complete her parenting classes. Child Protective Services offered family counseling, but Mother did not take advantage of the counseling. A service provider also attempted to help Mother find an apartment or a different place to live including subsidized housing due to the poor conditions of Mother's house, but Mother never followed through with the full application packet. Mother did not show up at appointment times and was not home when the service provider went to pick Mother up to assist her in obtaining different housing. In April 2006, the services were stopped because Mother was not fully utilizing the services.

The LCDCS filed petitions for termination of Mother's parental rights to the Children. On June 8, 2006, the trial court held a termination hearing, at which Mother admitted that she had used crack cocaine seven days before the hearing. After the hearing, the trial court granted the petition to terminate Mother's parental rights and entered the following findings of fact and conclusions thereon:

The Court finds by clear and convincing evidence that:

* * * * *

The allegations of the petition are true:

The [Children have] been removed from their parent(s) for least [sic] six (6) months under a dispositional decree(s) of this Court

There is a reasonable probability that the conditions resulting in the removal of the child from their parents' home will not be remedied in that: The Lake County Department of Child Services assumed care, custody and control of the children on 9/14/04 at which time the children were removed from the home of the mother and placed in alternative care. Court finds the children have never been returned to either parent. Court finds this matter was originally being handled as a service case due to substandard living conditions in the home during July 2004. The children were removed from the home on 9/14/04, after police were called to the residence due to domestic violence and the home was found to be in a deplorable condition. Mother also admitted to using crack cocaine at that time. At the time that the children were removed, the home had not had any electrical service for three weeks. Mother has a long history of substance abuse. Mother and Harold Dawson had their parental rights involuntarily terminated on 6/15/2000 with respect to the following biological children due to similar circumstances and conditions in the home.

[M.D.C.], Cause No. 45D06-9804-JT-63;
[H.D.C.] Cause No. 45 D06-9804-JT-65; and
[J.C.] Cause No. 45D06-9804-JT-64.

Mother also had her parental rights involuntarily terminated on 6/15/2000 with respect to the following children who had different fathers:

[C.C.], Cause No. 45D06-9804-JT-68;
[K.C.], Cause No. 45D06-9804-JT-66; and
[Z.C.], Cause No. 45D06-9804-JT-67.

Court further finds [Mother] and Mr. Edwards have been inconsistent with their compliance with the caseplan. When the mother has been located for drug screening, her tests have been positive. [Mother] admitted here today, that she continues to use crack cocaine. Neither parent has completed parenting classes. Mr. Edwards has never completed counseling. It took mother one year to complete a twelve week program. Mother and Mr. Edwards often have to be redirected during supervised visitations due to inappropriate language and topics. Neither [Mother] nor fathers have obtained and maintained suitable housing for the children. Mother and Mr. Edwards are believed to be mildly mentally handicapped. No parent has demonstrated any significant interest in regaining custody of their children. No parent is providing the necessary emotional or financial support for their children.

There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child in that: for all the reasons stated above.

The Lake County Division of Family and Children has a satisfactory plan for the care and treatment of the child which is Placement in a permanent adoptive home environment and supervision in placement pending granting of an adoption. Court identifies Willie and Letitia Clinton as the prospective adoptive parents of all four children. Court waives the SNAP Committee at this time.

Further, the factors requiring dismissal listed in I.C. 31-35-2-4.5(d)(1)-(3) do not apply in this matter.

The Court grants said petition, and it is adjudged that the parent-child relationship between [D.C.] – Ward of DCS, [A.E.] – Ward of DCS, [J.E.] – Ward of DCS and [J.S.E] – Ward of DCS, the child, and [Mother], Harold Dawson (Alleged Father) and Jade Edwards, SR (Alleged Father), the parent(s), be, and the same hereby is terminated, and all rights, powers, privileges, immunities, duties and obligations (including the right to consent to adoption) pertaining to that relationship are hereby permanently

terminated. CASA is directed to participate in the adoption process pursuant to Indiana law.

* * * * *

Appellant's Appendix at 2-3.

The sole issue is whether the trial court's order terminating Mother's parental rights to the Children is clearly erroneous. The traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution. Bester v. Lake County Office of Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). However, these parental interests are not absolute and must be subordinated to the child's interests in determining the proper disposition of a petition to terminate parental rights. Id. Parental rights may be terminated when the parents are unable or unwilling to meet their parental responsibilities. Id. The purpose of terminating parental rights is not to punish parents, but to protect children. In re L.S., 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), reh'g denied, trans. denied, cert. denied, 534 U.S. 1161, 122 S. Ct. 1197 (2002).

When reviewing a termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. Bester, 839 N.E.2d at 147. We will consider only the evidence and reasonable inferences therefrom that are most favorable to the judgment. Id. Here, the trial court made findings in granting the termination of Mother's parental rights as well as the parental rights of the two fathers. When reviewing findings of fact and conclusions thereon entered in a case involving a termination of parental

rights, we apply a two-tiered standard of review. Id. First, we determine whether the evidence supports the findings. Id. Then, we determine whether the findings support the judgment. Id. The trial court's judgment will be set aside only if they are clearly erroneous. Id. "A judgment is clearly erroneous if the findings do not support the trial court's conclusions or the conclusions do not support the judgment." Id. (citation and internal quotations omitted).

Ind. Code § 31-35-2-8(a) (2004) provides that "if the court finds that the allegations in a petition described in [Ind. Code § 31-35-2-4] are true, the court shall terminate the parent-child relationship." Ind. Code § 31-35-2-4(b)(2) provides that a petition to terminate a parent-child relationship involving a child in need of services must allege that:

- (A) one (1) of the following exists:
 - (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
 - (ii) a court has entered a finding under Ind. Code § 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or
 - (iii) after July 1, 1999, the child has been removed from the parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months;
- (B) there is a reasonable probability that:

- (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
 - (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;
- (C) termination is in the best interests of the child; and
- (D) there is a satisfactory plan for the care and treatment of the child.

The State must establish these allegations by clear and convincing evidence. Egly v. Blackford County Dep't of Pub. Welfare, 592 N.E.2d 1232, 1234 (Ind. 1992); Doe v. Daviess County Div. of Children & Family Services, 669 N.E.2d 192, 194 (Ind. Ct. App. 1996), trans. denied. Mother challenges the trial court's findings: (A) that the conditions that resulted in the Children's removal will not be remedied; (B) that the continuation of the parent-child relationship posed a threat to the well being of the Children; (C) that the termination of the parent-child relationship is in the Children's best interests; and (D) that there is a satisfactory plan for the care and treatment of D.C.

A. Conditions Will Not Be Remedied

Mother argues that the trial court erred by finding that there was a reasonable probability that the conditions that resulted in the Children's removal or placement outside the home would not be remedied. Specifically, Mother argues that: (1) there was no evidence on Mother's current housing; (2) Mother is drug free; and (3) Mother complied with the case plan.

To determine whether the conditions that resulted in the Children's removal will be remedied, the trial court must look to Mother's fitness at the time of the termination proceeding. In re L.V.N., 799 N.E.2d 63, 69 (Ind. Ct. App. 2003). In addition, the court must look at the patterns of conduct in which the parent has engaged to determine if future changes are likely to occur. Id. When making its determination, the trial court can reasonably consider the services offered to the parent and the parent's response to those services. Id. The trial court must evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child. In re D.J., 755 N.E.2d 679, 684 (Ind. Ct. App. 2001), reh'g denied, trans. denied. "A termination of parental rights cannot be based entirely upon conditions which existed in the past, but which no longer exist." In re T.C., 630 N.E.2d 1368, 1374 (Ind. Ct. App. 1994), reh'g denied, trans. denied.

1. Mother's Current Housing

The service provider attempted to help Mother find an apartment or a different place to live including subsidized housing due to the poor conditions of Mother's house, but Mother never followed through with the full application packet. Mother did not show up at appointment times and was not home when the service provider went to pick Mother up to assist her in obtaining different housing. At the time of the termination hearing, Mother still lived in the same house and admitted that the house looked "a little bit better" than before. Transcript at 93. Considering the evidence and reasonable inferences that are most favorable to the judgment, we conclude that the evidence

supports the finding that Mother failed to obtain and maintain suitable housing for the Children.

2. Mother's Drug Use

Mother argues that she completed a substance abuse treatment program, tested negative for drugs for at least two years, and currently attends "NA" meetings to remain drug free. Appellant's Brief at 9. The record reveals that Mother admitted that she had smoked crack cocaine the night before the domestic disturbance incident. Mother was provided services, including a twelve week outpatient drug rehabilitation program that took Mother about a year because she only showed up occasionally for appointments. Of the twelve times Mother was tested for drugs for this case, Mother tested positive ten times. At the termination hearing, Mother admitted that she had used crack cocaine seven days before the hearing. The evidence supports the finding that Mother tested positive for cocaine and used cocaine a week before the termination hearing.

3. Mother's Compliance with the Case Plan

Mother also argues that she complied with the case plan. Mother failed to complete her parenting classes. The case manager testified that Mother has periods of compliance with services but then becomes non-compliant. The case manager also testified that Mother was "not consistent in following through with anything." Transcript at 54. The evidence supports the finding that Mother failed to comply with the case plan.

The trial court had the responsibility to judge Mother's credibility and weigh the evidence of changed conditions against the testimony demonstrating Mother's habitual

patterns of conduct in failing to complete the required services. On appeal, we cannot reweigh the evidence or judge the credibility of the witnesses. Doe, 669 N.E.2d at 194. We cannot say that the trial court's finding that there was a reasonable probability that the conditions that resulted in the Children's removal or placement outside the home would not be remedied is clearly erroneous. See, e.g., Bergman v. Knox County Office of Family & Children, 750 N.E.2d 809, 812 (Ind. Ct. App. 2001) (holding that the trial court did not abuse its discretion when the trial court gave more weight to the abundant evidence on the mother's pattern of conduct in neglecting her children during the several years prior to the termination hearing than the mother's evidence that she had changed her life to better accommodate the children's needs).

B. Threat to the Well Being of the Children

Mother argues that the continuation of the parent-child relationship does not pose a threat to the well being of the Children. Specifically, Mother argues that she was in substantial compliance with her case plan, that the court failed to recognize Mother's health problems,³ and that the children would not be harmed in any way if the parent-child relationship continued.

Ind. Code § 31-35-2-4(b)(2)(B) required the LCDCS to demonstrate by clear and convincing evidence a reasonable probability that *either*: (1) the conditions that resulted

³ Mother indicated to the case manager that she had a brain tumor but did not provide the case manager with any documentation.

in the Children's removal or the reasons for placement outside the home of the parents will not be remedied, *or* (2) the continuation of the parent-child relationship poses a threat to the well being of the Children. The trial court specifically found that the conditions that resulted in the Children's removal or the reasons for placement outside the home of the parents will not be remedied, and there is sufficient evidence in the record to support the trial court's conclusion. See supra Part A. Thus, we need not determine whether the trial court's conclusion that there was a reasonable probability that the continuation of the parent-child relationship poses a threat to the well being of the Children is clearly erroneous. See, e.g., In re T.F., 743 N.E.2d 766, 774 (Ind. Ct. App. 2001), trans. denied.

C. Best Interests

Mother argues that termination of the parental relationship is not in the best interests of the Children. In determining what is in the best interests of the child, the trial court is required to look at the totality of the evidence. A.F. v. Marion County Office of Family & Children, 762 N.E.2d 1244, 1253 (Ind. Ct. App. 2002), trans. denied. In doing so, the trial court must subordinate the interests of the parents to those of the child involved. Id. The family case manager testified that termination was in the best interest of the Children. Based upon the totality of the evidence in this case, the trial court's finding that termination was in the Children's best interest was supported by clear and convincing evidence. See, e.g., McBride v. Monroe County Office of Family & Children, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003) (holding that the testimony of a

caseworker and CASA alone is sufficient to support the court's conclusion that termination is in the children's best interests); In re M.M., 733 N.E.2d 6, 13 (Ind. Ct. App. 2000) (holding that the testimony of the CASA and the family case manager, coupled with the evidence that the conditions resulting in the placement outside the home will not be remedied, was sufficient to prove by clear and convincing evidence that termination was in a child's best interest).

D. Satisfactory Plan

Mother argues that there is not a satisfactory plan for the care and treatment of D.C. A plan need not be detailed, so long as it offers a general sense of the direction in which the child will be going after the parent-child relationship is terminated. In re B.D.J., 728 N.E.2d 195, 204 (Ind. Ct. App. 2000). D.C. was placed in the St. Joseph's Home for Boys due to behavioral issues, but the LCDCS hopes that D.C. will be able to complete a program and move back to the foster home. The case manager testified that D.C. was adoptable. Thus, sufficient evidence exists to support the trial court's conclusion that a satisfactory plan exists for the care and treatment of D.C. See, e.g., id.

For the foregoing reasons, we affirm the trial court's involuntary termination of Mother's parental rights.

Affirmed.

SULLIVAN, J. and CRONE, J. concur